

COTTONWOOD HEIGHTS

RESOLUTION NO. 2009-59

A RESOLUTION AUTHORIZING ENTRY INTO THE SALT LAKE GANG PROJECT INTERLOCAL AGREEMENT

WHEREAS, UTAH CODE ANN. §11-13-101, *et seq.* (the “*Interlocal Cooperation Act*”) provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

WHEREAS, on or about ____ 2008, Draper City and approximately 18 other public agencies in the state of Utah entered into the “Salt Lake Gang Project Interlocal Agreement” (the “*Agreement*”) to form a working group and task force (the “*Gang Project*”) to cooperatively use their respective resources to, *inter alia*, identify street gangs and gang members, investigate gang-related crimes, divert gang members into positive activities, suppress gang activities through proactive enforcement efforts, and develop strategies for successful prosecution of gang members; and

WHEREAS, the Agreement provides that additional public agencies may join the Gang Project as a member public agencies upon written request and approval of the Gang Project’s Governing Board (the “*Board*”); and

WHEREAS, the police department (the “*CHPD*”) of the city of Cottonwood Heights (the “*City*”) formally commenced operations on 1 September 2008 following formation of the Gang Project; and

WHEREAS, Chief Robby Russo of the CHPD heretofore has advised the city council (the “*Council*”) of the City that it would be advantageous for the CHPD to become a member of the Gang Project; and

WHEREAS, to enable the City to become a party to the Agreement and the CHPD to become a member of the Gang Project, the CHPD notified the Governing Board in writing of its intent to be considered for membership; and

WHEREAS, thereafter, the Governing Board notified each agency member of the Gang Project of the CHPD’s intent to join; such agencies had 30 days to submit written objection to the Governing Board; and the Governing Board then voted to admit the CHPD as a member agency, conditioned on the City’s written agreement to be bound by the Agreement and all bylaws and policies of the Gang Project; and

WHEREAS, it now is advisable and necessary to amend the Agreement to include the City as a party and the CHPD as an additional member public agency of the Gang Project; and

WHEREAS, the Council met in regular session on 27 October 2009 to consider, among other things, approving the City’s entry into an addendum to the Agreement (the “*Addendum*”)

adding the City as a party to the Agreement and the CHPD as a member public agency of the Gang Project; and

WHEREAS, the Council has reviewed the form of the Agreement and the Addendum, photocopies of which are annexed hereto; and

WHEREAS, the city attorney of the City has approved the form of the Addendum as required by *Utah Code Ann.* §11-13-202.5(3); and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the City's residents to approve the City's entry into the Addendum as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Addendum is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Addendum on behalf of the City.

This Resolution, assigned no. 2009-59, shall take effect immediately upon passage.

PASSED AND APPROVED this 27th day of October 2009.

COTTONWOOD HEIGHTS CITY COUNCIL



Linda W. Dunlavy
Linda W. Dunlavy, Recorder

By

Kelvyn H. Cullimore, Jr.
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Gordon M. Thomas	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Don J. Antczak <i>Absent</i>	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
Bruce T. Jones	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 27th day of October 2009.

RECORDED this 27 day of October 2009.

SALT LAKE AREA GANG PROJECT

INTERLOCAL AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") is entered into this _____ day of _____ 2008, by and between Draper City on behalf of its Police Department; Granite School District on behalf of its Police Department; Midvale City on behalf of its Police Department; Murray City on behalf of its Police Department; Salt Lake City on behalf of its Police Department; Salt Lake County on behalf of its Sheriff's Office and District Attorney's Office; Sandy City on behalf of its Police Department; South Jordan City on behalf of its Police Department; South Salt Lake City on behalf of its Police Department; Taylorsville on behalf of its Police Department; West Jordan City on behalf of its Police Department; West Valley City on behalf of its Police Department; State of Utah on behalf of its Department of Corrections' Juvenile Justice Services and Law Enforcement Bureau; State of Utah on behalf of its Department of Public Safety State Bureau of Investigation; the United States Bureau of Alcohol, Tobacco, Firearms and Explosives; United States Federal Bureau of Investigations; United States Attorney's Office for the District of Utah; and the United States Marshals Service for the purpose of facilitating the establishment of the Salt Lake Area Gang Project.

RECITALS:

- A. Whereas, the above named parties have experienced within their jurisdictions a growing problem with street gangs and their associate criminal activities such as homicides, drive by shootings, drug trafficking, burglaries, aggravated assaults and vandalism; and
- B. Whereas, although not every jurisdiction has experienced an equal share of gang activity, each party recognizes a benefit from the work of the Gang Project to contain gang activity by investigating and arresting gang members before further crimes are committed in their communities; and
- C. Whereas, the effective investigation and prosecution of illegal gang activity requires specialized personnel, who are able to investigate on a cooperative arrangement; and
- D. Whereas, the coordinated efforts of federal, state, and local law enforcement agencies can enhance the enforcement of laws against illegal gang activity; and
- E. Whereas, the Utah Interlocal Cooperation Act, §§ 11-13-101 *et seq.*, 1953, as amended, authorizes public agencies to enter into agreement to provide law enforcement services to one or more other public agencies; and
- F. Whereas, many of the parties hereto are also parties to a previously executed Interlocal Cooperation Agreement creating the Salt Lake Area Gang Project which shall be replaced by this Interlocal Cooperation Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. General Purpose. The Salt Lake Area Gang Project ("Gang Project") which was established by Interlocal Cooperation Agreement, executed in 1991, and herein reconstituted shall perform the activities and duties described below:

- (a) Identify street gangs and gang members in the Salt Lake County area and Utah;
- (b) Investigate crimes related to or involving gang members;
- (c) Divert gang members into positive programs and activities through education and community support efforts;
- (d) Suppress gang activities through proactive enforcement efforts; and
- (e) Develop strategies for successful prosecution of gang members.

Section 2. Definitions. For purposes of this Interlocal Cooperation Agreement, the following terms shall have the meanings given in this section:

- (a) "Assigning Agency" shall mean each party agency that is a signatory to this Agreement and that assigns a prosecutor, federal officer or a sworn law enforcement officer to serve on the Gang Project.
- (b) "Bylaws" shall mean the rules adopted by the Governing Board to govern the internal affairs of the Gang Project.
- (c) "Federal officer" shall mean those officers assigned as representatives to the Gang Project and who are employed by a law enforcement agency of the U.S. Government. "Federal officer" includes those officers enumerated in section 53-13-106 of the Utah Code Ann., 1953 as amended.
- (d) "Governing Board" shall mean the joint board described in Section 7 of this agreement.
- (e) "Governing Board member" shall mean those individuals who are assigned by their agencies to sit on the Governing Board of the Gang Project. A "Governing board member" is not a "representative."
- (f) "Host Funding Agency" shall mean the assigning agency that applies for and is awarded state task force grant funds to organize and supervise a task force to investigate gang related crime in Salt Lake County.
- (g) "Operating policies" shall mean those written policies which set forth operating parameters for the Gang Project as they are created by the Project Director pursuant to his or her authority as delegated by this agreement or by the Governing Board in the Gang Project bylaws.
- (h) "Project Director" shall mean a representative who is charged supervising the day to day operations of the Gang Project, among other responsibilities.
- (i) "Prosecutor" shall mean a representative employed by one of the prosecuting agencies party to this Agreement. A "prosecutor" is not a federal officer nor is he a sworn law enforcement officer.
- (j) "Representative" shall mean all those personnel assigned by their agencies to carry out the law enforcement functions of the Gang Project. A "representative" can be a federal officer, a sworn law enforcement officer, or a prosecutor. A "representative" is not a Governing Board member.

(k) "Sworn law enforcement officer" shall mean all those representatives assigned by agencies of the State of Utah or any of its political subdivisions to carry out the law enforcement functions of the Gang Project. A "sworn law enforcement officer" is not a federal officer.

Section 3. Gang Project Participating Agencies.

(a) To accomplish the purpose of the Gang Project as set forth in Section 1. above, unless otherwise approved in a written MOU between the Governing Board and the assigning agency, each assigning agency, through its law enforcement division or prosecuting agency shall provide one or more FTE ("full time equivalent") representative to the Gang Project, for a recommended but non-binding term of three years.

(b) New Member Agency Approval. Other agencies, not a party to this Agreement, may join with the approval of the Governing Board. To become a party to the Gang Project, a political subdivision of the State of Utah or an Agency of the United States shall notify the Governing Board in writing of its intent to be considered for membership. The Governing Board shall then notify each assigning agency of Gang Project of the prospective agency's intent to join. Assigning agencies shall then have thirty (30) days to submit a written objection to the Governing Board. At the completion of the thirty day period to object, the Governing Board shall take a vote to admit or reject the new agency. If accepted, the prospective agency shall agree in writing to be bound by the terms and conditions of this Agreement; and all bylaws and policies.

Section 4. Gang Project Jurisdiction. The Gang Project shall have jurisdiction throughout Salt Lake County to investigate gang related crimes which have been referred to the Gang Project by an assigning agency. The Gang Project reserves the right to decline a referred case. Each assigning agency hereby expressly consents to allow the Gang Project to conduct investigations and enforcement efforts within the agency's jurisdiction in Salt Lake County. The Gang Project may also investigate gang related crimes beyond Salt Lake County at the request of the law enforcement agency having jurisdiction in that location provided the Project Director has approved the request.

Section 5. Deconfliction. The Gang Project shall notify assigning agencies of all crimes discovered in the course of an investigation and shall make all reasonable efforts to notify assigning agencies about investigations in their jurisdiction to avoid duplicative or competitive investigations.

Section 6. Gang Project Goals and Objectives. The goals and objectives of the Gang Project include:

- (a) Identifying the gang crimes affecting the Salt Lake area and Utah and propose plans to circumscribe gang activity;
- (b) Identifying organized crime systems and alternatives to reduce the effectiveness of these systems;
- (c) Maintaining a database with a descriptive analysis of criminal gang activity impacting the Salt Lake Area and Utah;
- (d) Assessing the efforts of law enforcement in the control of criminal gang activity in the Salt Lake Area and Utah;
- (e) Providing law enforcement agencies with information and assistance which will lead to the apprehension and prosecution of gang members involved in criminal activities;

(f) Enhancing intelligence reports through computer links with outside agencies and with the support of a computer analyst who assists with analytical investigations.

Section 7. Gang Project Administration.

(a) The Governing Board. The Gang Project shall be governed by a Governing Board. The Governing Board shall be a joint board as set forth in § 11-13-207, Utah Code Ann., 1953 as amended. The Governing Board shall address policy matters and the resolution of operational problems. The Governing Board shall be vested with authority to adopt bylaws, veto policies established by the Project Director, and review and approve the Gang Project budget as proposed by the Project Director.

(b) Membership. Governing Board members shall be limited to one employee from each assigning agency. Each Governing Board member is the primary delegate from his or her assigning agency to the Gang Project. Prolonged absence by any Governing Board member from the Governing Board shall be handled between the Governing Board and the absentee to insure proper representation at Governing Board meetings.

(c) Board Chairperson and Vice Chairperson. A Governing Board Vice Chairperson shall be elected by the Governing Board, to serve in the position for a one-year period, beginning every September 1st of each year. On August 31 of each year, the Vice Chairperson shall assume the role of Chairperson of the Governing Board for one year. The Governing Board Chairperson shall be the chief spokesperson for the Governing Board and shall chair all Governing Board meetings. The Chairperson and Vice Chairperson shall be voting members of the Governing Board. The Chairperson and Vice Chairperson may be removed from their positions upon a two-thirds vote of the entire voting membership of the Governing Board. Telephonic or electronic voting is acceptable.

(d) Voting, Quorum. Half of the voting members of the Governing Board shall constitute a quorum. Unless otherwise provided for in this Agreement, the Governing Board may take any action permitted by this Agreement provided that a quorum is present and there are not less than a simple majority of affirmative votes of the quorum. Any action voted upon by less than a simple majority of the full Governing Board shall not take effect until the next meeting of the Governing Board where a quorum is present and where it shall be subject to ratification by a majority of the Governing Board. Telephonic or electronic voting is acceptable.

Section 8. Duties of the Governing Board. The duties of the Governing Board shall be:

(a) To meet bi-monthly in order to address Gang Project business. An agenda listing action items to be voted on shall be sent out to Governing Board Members by the Chairperson or his designee at least one week before each meeting of the Governing Board.

(b) To request financial audits as deemed necessary,

(c) To issue to the assigning agencies an annual report of the Gang Project's preceding year's activities;

(d) To vote on the removal of an assigning agency from the Gang Project, at the Project Director's request, when such assigning agency fails to provide support for by the Gang Project;

(e) To conduct evaluations of the Gang Project and its programs at least bi-annually;

- (f) To adopt or amend bylaws as needed;
- (g) To issue orders and adopt resolutions as needed;
- (h) To recommend appropriate training as needed;
- (i) To approve the appointment of a new project director;
- (j) To approve an operating budget for the Gang Project no later than its August Board meeting; and
- (k) At the Governing Board's discretion, offer Gang Project investigative services to any non-party jurisdiction without granting membership status.

Section 9. Host Funding Agency. There shall be one host funding agency (HFA) for the Gang Project. Except for the ministerial functions stated herein, the HFA has no other authority or responsibility above or beyond those shared by all assigning agencies unless otherwise provided by the HFA'S grant requirements. The HFA shall provide the following ministerial functions:

- (a) Grantee. The HFA is authorized to be, and shall be, the recipient of any grant money awarded to the Gang Project and shall receive the funds in trust directly for distribution to the Gang Project. The Governing Board and the HFA share the responsibility for ensuring that the program described in the application is successfully carried out, including ensuring the funds expended are expended for only eligible activities.
- (b) Audit Cooperation. The HFA shall permit and have ready for examination and auditing any and all records, documents, accounts, invoices, receipts, or expenditures relating to this Agreement. The HFA shall maintain all such reports and records until all audits and examinations are completed or resolved, and as defined by State and Local laws.
- (c) Procurement. For purposes of this Agreement, the assigning agencies hereby agree to abide by the relevant procurement procedures of the HFA and shall consult with the HFA in all procurement matters relevant to the Gang Project. The Governing Board or Project Director may consult with HFA employees regarding any interpretation of procurement procedures, but the HFA is ultimately responsible for properly following the procedures.
- (d) Fiscal Issues. The HFA shall accept all funds in trust, whether from grant monies, forfeited cash, or other sources and is responsible for fiscal accountability and required financial reporting.
- (e) Office Space & Support. If available, the HFA shall provide office space, without charge to the assigning agencies. Any increase in support services, such as (but not limited to) alarm, security, and telephone systems may be paid for with grant monies.

Section 10. Representative Qualifications. All representatives assigned to the Gang Project shall be prosecutors, federal officers, or sworn law enforcement officers as defined by the laws of the State of Utah. Sworn law enforcement officers serving on the Gang Project should have a minimum of one year of law enforcement experience including investigative experience. The Project Director is authorized to develop selection criteria for prospective representatives to the Salt Lake Area Gang Project and non-binding performance expectations for representatives. The Project Director shall conduct

programs for the career development of Gang Project representatives.

Section 11. Duty Assignments. Assigned representatives are to report, as assigned, to their Gang Project Supervisor. Participating agencies also recognize, unless otherwise provided in this agreement or approved by the Governing Board, that each Gang Project assigned representative is assigned on a full-time basis with all direct supervisory authority being undertaken by the Gang Project supervisory organization and chain of command. The Gang Project shall not reimburse an assigning agency for employee overtime expenses unless and until the agency's assigned representative has worked forty (40) hours under the direct supervision of their gang project supervisor.

Section 12. Record Keeping and GRAMA. All representatives and Governing Board members shall adhere to their assigning agency's GRAMA policies and reporting and record keeping systems. All criminal intelligence information as defined in 28 C.F.R. Part 23 shall be maintained only by the Gang Project and disseminated pursuant to the requirements of 28 C.F.R. Part 23.

Section 13. Vacation, Leave Time, & Travel. Representatives shall coordinate annual leave, sick leave, compensatory leave, or other types of leave with their assigning agency and with their Gang Project supervisor.

Section 14. Representative Suspension & Removal. Representatives may be removed from the Gang Project by their assigning agency at its sole discretion upon thirty days written notice to the Project Director. Removal due to difficulties in the representative's performance or issues with the representative's conduct can also occur at the request of the Project Director, after consultation with the assigning agency. Unless otherwise approved by the Governing Board, any representative removed shall be replaced by another qualified officer within thirty (30) calendar days.

Section 15. Employee Status.

(a) Each representative and Governing Board member whether or not their assigning agency is considered a 'governmental entity' under the Utah Governmental Immunity Act shall be considered to be an employee of his or her assigning agency even though the officer performs functions outside of the jurisdiction of their assigning agency.

(b) Each representative and Governing Board member shall continue to be governed by the rules, rights, entitlements, and status that apply to an employee of his or her assigning agency.

(c) All the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions, and relief, disability, workers compensation, and other benefits that apply to a representative or Governing Board members while performing functions within the territorial limits of his or her assigning agency shall apply to the same degree and extent when the representative performs functions or duties under the agreement outside the territorial limits of his or her assigning agency.

Section 16. Compensating Representatives. Each assigning agency shall fund all salaries and benefits and other obligations its representatives assigned to the Gang Project shall be paid by the assigning agency. Each assigning agency shall pay its representatives for overtime incurred while participating in Gang Project investigations. Assigning agencies may invoice the Gang Project for reimbursement of such overtime expenses. The Gang Project shall reimburse an assigning agency for employee overtime expenses within thirty (30) days of receipt of an invoice for such reimbursable expenses.

Section 17. Insurance. Each assigning agency shall be solely responsible for providing

workers' compensation and benefits for its own employees who provide services under this Agreement. Each assigning agency shall obtain insurance, become a member of a risk pool, or be self insured to cover the liability arising out of negligent acts or omissions of its own personnel rendering services under this Agreement.

Section 18. Equipment Provided. Each assigning agency shall provide its representative with the basic equipment necessary to carry out the responsibilities performed by its representative.

Section 19. Applicable Policies & Procedures. The assigning agencies agree that representatives assigned to the Gang Project shall follow Gang Project bylaws and operating policies and that in case of conflict with or in absence of a Gang Project bylaw or policy, an agencies' bylaws, policies and procedures shall prevail. With respect to federal agents, United States Attorney General guidelines will prevail.

Section 20. Personnel. The personnel policies of each assigning agency shall apply to the administration and conduct of their assigned personnel. Each assigning agency understands that their representative shall also follow the direction and supervision their Gang Project supervisors and that policies of general application to all employees assigned to the Gang Project will apply.

Section 21. Immunity Act Defenses. The assigning agencies are governmental entities as set forth in the Utah Governmental Immunity Act, (§§ 63-30-101 *et seq.*, Utah Code Ann.. 1953, as amended) and/or covered by the Federal Tort Claims Act 28 USC 2671-2680 9 ("FTCA"). It is mutually agreed that the assigning agencies are each responsible for their own wrongful and negligent acts which are committed by them or their agents, officials, or employees, except as may be covered by the FTCA. The assigning agencies do not waive any defenses otherwise available under the State or Federal law, nor does any assigning agency waive any limits of liability provided by law. Any immunity and damage caps are expressly preserved and retained.

Section 22. Disposition of Property Acquired by Gang Project. Upon withdrawal of any party, or termination of this Agreement, the withdrawing party shall retain that property which it allowed to be used by the Gang Project. Upon termination of this Agreement, (a) any property obtained in common shall be sold and proceeds divided among the current members proportionately according to the most recent annual contribution, or as prescribed by state or federal narcotics control funds restrictions and (b) all total available funds shall be distributed among the current members according to the most recent annual contribution. Periods of time stated in this Agreement shall be calculated from July 4, 1991.

Section 23. Termination of Agreement. Any party may withdraw at the end of the State fiscal year (June 30) upon thirty (30) days written notice to the Governing Board. This Agreement shall terminate on June 30, 2018 unless extended by amendment executed by all assigning parties before that date.

Section 24. Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be sufficient for all purposes if: (a) sent by email to the address the assigning agency may designate, or by fax to the fax number the assigning agency may designate, and (concurrently) sent by first class mail to the assigning agency and to the assigning agency's legal office; (b) personally delivered; or (c) sent by certified or registered United States Mail, addressed to the assigning agency at the address the assigning agency may designate, return receipt requested. Unless otherwise designated the Notice addresses are as listed on attached Exhibit "A."

Section 25. Duplicate Originals. This Interlocal Cooperation Agreement shall be signed in

counterpart by the Parties and a duplicate original provided to each entity's Recorder or other entity with similar authority if the party does not have a recorder promptly after execution.

IN WITNESS WHEREOF, the parties have affixed their signatures hereto upon resolution of their governing body as required by law and give effect to this agreement.

SALT LAKE COUNTY

By: _____
Mayor or Designee

STATE OF UTAH)
 :SS
COUNTY of Salt Lake)

On the _____ day of _____, 2008, personally appeared
before me _____, who being by me duly sworn did say, that s/he is the
_____ of Salt Lake County, Office of Mayor and that the foregoing instrument
was signed in behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC, residing in
SALT LAKE COUNTY, State of UTAH

My Commission Expires:

AGENCY APPROVAL:

By: _____
James Winder, Sheriff
Salt Lake County Sheriff's Office

APPROVED AS TO FORM:

By: _____
Megan L. Smith,
Deputy District Attorney
Salt Lake County

ADDENDUM TO
SALT LAKE GANG PROJECT
INTERLOCAL AGREEMENT

THIS ADDENDUM (this "*Addendum*") is made by the city of **COTTONWOOD HEIGHTS**, a Utah municipality (the "*City*") acting on behalf of its Police Department (the "*CHPD*"), and is appended to and a part of that certain "Salt Lake Gang Project Interlocal Agreement" (the "*Agreement*") dated _____ 2008 by and among Draper City, *et al.* Unless otherwise defined herein, capitalized terms in this Addendum shall have the same meanings as in the Agreement.

To enable the City to become a party to the Agreement and the CHPD to become a member of the Gang Project, the CHPD heretofore has notified the Governing Board in writing of its intent to be considered for membership. Thereafter, the Governing Board notified each agency member of the Gang Project of the CHPD's intent to join; such agencies had 30 days to submit written objection to the Governing Board; and the Governing Board then voted to admit the CHPD as a member agency, conditioned on written agreement to be bound by the Agreement and all bylaws and policies of the Gang Project.

Consequently, the City, for itself and the CHPD, hereby agrees to be bound by the terms and conditions of the Agreement and by all bylaws and policies adopted thereunder.

DATED effective 27 October 2009.

ATTEST:

COTTONWOOD HEIGHTS,
a Utah municipality

By: _____
Linda W. Dunlavy, Recorder

By: _____
Kelvyn H. Cullimore, Jr., Mayor

APPROVED AS TO FORM:

By: _____
Wm. Shane Topham, City Attorney

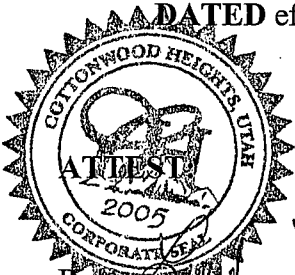
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DATED effective 27 October 2009.




By: 
Linda W. Dunlavy, Recorder

COTTONWOOD HEIGHTS,
a Utah municipality

By: 
Kelynn H. Cullimore, Jr., Mayor

APPROVED AS TO FORM:

By: 
Wm. Shane Topham, City Attorney